

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM B. FOBBS,

Plaintiff,

v.

FRANK KENDALL,

Defendant.

Case No. 17-cv-03901-JCS

**ORDER GRANTING MOTION FOR
EXTENSION OF TIME AND
REQUIRING PARTIES TO MEET AND
CONFER**

Re: Dkt. No. 73, 74

The administrative motion (dkt. 74) file by Defendant Frank Kendall¹ (the “Secretary”) for extension of time for his opposition brief is GRANTED, and the brief filed on August 30, 2021 (dkt. 75) is deemed timely filed.

The Court is concerned that the parties have not engaged in a good faith effort to resolve this dispute. The parties’ settlement agreement under Rule 68 provides only for an award of “reasonable attorneys’ fees to the date of [the Secretary’s] offer in an amount to be determined by the Court.” Dkt. 68-1. Contrary to Fobbs’s attorney’s assertion, attempting to resolve this issue would not be “negotiating against [her]self”; it would be an attempt to reach a mutually agreeable resolution that might be more favorable than what Fobbs will receive if the issue is decided by the Court.² The parties are ORDERED to meet and confer via videoconference and engage in good faith negotiations to attempt to resolve this issue no later than September 24, 2021.

If the parties cannot reach a resolution, Fobbs is ORDERED to file a reply brief no later than October 1, 2021 either conceding or responding to each of the arguments for a reduction of

¹ Kendall is automatically substituted as the defendant in this case under Rule 25(d) of the Federal Rules of Civil Procedure.

² If done at the outset, such negotiations also could have spared counsel the time needed to brief and argue this motion.

1 fees included in the Secretary's opposition brief, and including evidentiary support for the
2 reasonableness of his attorneys' hourly billing rates. The hearing noticed for October 1, 2021 is
3 CONTINUED to October 15, 2021 at 9:30 AM, to occur via Zoom webinar.

4 **IT IS SO ORDERED.**

5 Dated: September 10, 2021

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7 JOSEPH C. SPERO
8 Chief Magistrate Judge
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